

Members:

Sen. Patricia Miller, Chair  
Sen. Robert Meeks  
Sen. Joseph Zakas  
Sen. Rose Antich  
Sen. Samuel Smith, Jr.  
Sen. Vi Simpson  
Rep. William Bailey  
Rep. Charlie Brown  
Rep. William Crawford  
Rep. Ralph Ayres  
Rep. Vaneta Becker  
Rep. David Frizzell



## **SELECT JOINT COMMITTEE ON MEDICAID OVERSIGHT**

**Legislative Services Agency  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 232-9855 Fax: (317) 232-2554**

LSA Staff:

Al Gossard, Fiscal Analyst for the Committee  
Steve Wenning, Attorney for the Committee

Authority: P.L. 130-1998

### **MEETING MINUTES**

Meeting Date: September 22, 1998  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St.,  
Room 125  
Meeting City: Indianapolis, Indiana  
Meeting Number: 7

Members Present: Sen. Patricia Miller, Chair; Sen. Robert Meeks; Sen. Joseph Zakas; Rep. William Bailey; Rep. William Crawford; Rep. Vaneta Becker; Rep. David Frizzell.

Members Absent: Sen. Rose Antich; Sen. Samuel Smith, Jr.; Sen. Vi Simpson; Rep. Charlie Brown; Rep. Ralph Ayres.

Sen. Miller, Chair of the Committee, called the meeting to order.

### **EDS Update**

#### **Ms. Mary Simpson, EDS**

Ms. Mary Simpson, EDS, provided five handouts to the Committee:

(1) An EDS Processing Update consisting of claims processing statistics (paid claims, denied claims, and amount paid by week), suspended claims statistics (number of suspended claims and percent of total claims adjudicated by week), provider assistance telephone statistics (number of calls, average hold time, and average length of call by week), and provider call back statistics (number of calls and average length of call).<sup>1</sup>

(2) A Medicaid dental services report providing data by month for 1998 on the number of

---

<sup>1</sup>This document is on file in the Legislative Information Center, Room 230, State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856 and the mailing address is 200 W. Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

enrolled providers, participating providers, and enrolled and participating recipients.<sup>2</sup>

(3) A report on dental claims payment history and processing statistics by month for 1998 including the number of claims paid and denied and total amount paid, the total claims processed and claims suspended, the number of claim correction forms issued, the average number of days to EDS' receipt of claim, the average number of days from receipt to payment, and the average number of days from service to payment.<sup>3</sup>

(4) Information and evaluation responses on the Medicaid dental training seminars that have been conducted.<sup>4</sup>

(5) A copy of the Indiana Medicaid Transition Newsletter (dated August 1998) distributed to all Indiana Medicaid providers.<sup>5</sup>

### **OMPP Update of Case-Mix Reimbursement System Implementation** **Ms. Judith Becherer, Director of Long Term Care, Office of Medicaid Policy and Planning (OMPP)**

Ms. Judith Becherer, OMPP, informed the Committee of an unanticipated problem that had developed. The problem was threatening the implementation of the Case-Mix Reimbursement System for nursing homes intended for October 1, 1998. However, she stated that, through the hard work and cooperation of the Indiana Health Care Association (IHCA), the Indiana Association of Homes for the Aging (IAHA), the Independent Owners Consortium, OMPP, and Myers and Stauffer, it appears that the problem has been identified and that there is a viable solution to the problem preserving the scheduled October 1 implementation.

After running the Case-mix model for August, Myers and Stauffer discovered a significant, unanticipated growth in estimated reimbursement rates attributable primarily to growth in therapy costs. It was determined that the estimated case-mix rates were artificially high because the rates were inappropriately including costs of *Medicare*-covered therapies, thus resulting in a double counting of these costs. The solution is a fairly simple one of separating out the Medicare costs from the Medicaid costs. OMPP and the provider organizations are all in agreement as to the short-term corrective measures that will be required to meet the scheduled October 1 implementation date. In the long term, the problem may require a rule change.

### **Mr. Jim Leich, Indiana Association of Homes for the Aging (IAHA)**

Mr. Jim Leich, IAHA, stated that the accomplishment of working together to solve the case-mix problem was an outgrowth of the Case-Mix Work Group and new working relationship between the nursing home industry and the state. Mr. Leich confirmed that the problem was one of increased utilization of therapy and the costs of therapy use. He stated that the costs were appropriate, but that it was just a matter of how to adjust for the non-Medicaid component.

---

<sup>2</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

<sup>3</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

<sup>4</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

<sup>5</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

**Mr. Vince McGowan, Indiana Health Care Association (IHCA)**

Mr. Vince McGowan, IHCA, expressed his appreciation to OMPP, Myers and Stauffer, and the other industry associations for their cooperation in solving the case-mix problem. He stated that it is very important for the case-mix reimbursement system to be implemented on October 1 since facilities have been planning and anticipating implementation on that date. He added that some sales and purchases of facilities have been predicated on the new rates.

**Mr. Larry Hamblin, Independent Owners Consortium (IOC)**

Mr. Larry Hamblin, IOC, stated that his Association believed the system should be implemented on schedule and that all systems will initially contain certain problems. He also stated that, if the rule is to be rewritten, the inflation factor used in the rule should be reconsidered.

**Mr. Keenan Bouy, Myers and Stauffer**

Mr. Keenan Bouy, Myers and Stauffer, confirmed that the source of the problem was in the therapy costs and that the original system anticipated a certain relationship in costs that did not hold true and that the therapy costs were thus skewed.

Members of the Committee expressed their appreciation that there was a willingness on the part of the industry and OMPP to collaborate and cooperate on developing a solution to this problem.

**Nursing Facility Inspection**

**Ms. Pat Rios, Indiana Department of Health (IDH)**

Ms. Pat Rios, IDH, provided a handout<sup>6</sup> to the Committee in response to the Committee's previous request for additional information concerning the nursing home facilities referenced in the Indianapolis Star/News series on long-term care. The handout provides the following information: (1) a list of each facility referenced in the newspaper series; (2) a chart providing definitions of the classification of violation categories; and (3) the number of facilities falling into each violation category. Ms. Rios introduced Mr. Gerald Coleman, Assistant Commissioner for Health Care Regulatory Services, to provide additional comment about the report.

**Mr. Gerald Coleman, Assistant Commissioner for Health Care Regulatory Services, IDH**

Mr. Gerald Coleman, IDH, stated that of the 20 facilities noted in the newspaper series, none had a violation that would be classified as an immediate jeopardy to a resident's health or safety. The most serious violation cited was at an "H" level (three facilities) indicating that actual harm did occur to patients and it was found to be a pattern in the facility.

Mr. Coleman stated that 12 of the 20 facilities were cited for a "G" level violation indicating that actual harm did occur, but it occurred to an isolated number of residents. The other eight facilities had less severe violations than a "G" level indicating that no actual harm occurred to residents. He also indicated that most nursing facilities are cited for something, usually a violation that is not very serious.

---

<sup>6</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

## **Letter to the Governor**

A letter<sup>7</sup> was reviewed by the Committee requesting that Governor O'Bannon refer the issue of Medicaid coverage of Viagra to the Drug Utilization Review (DUR) Committee in order that Medicaid patients can have access to the medically necessary treatments they need and that proper safeguards are put in place to prevent over-utilization of the drug and reimbursement to those who seek the drug for other than medical purposes.

Ms. Kathy Gifford, Assistant Secretary for OMPP, indicated that the decision by the state to consider Viagra a fertility drug and, thus, deny Medicaid reimbursement on that basis precluded OMPP taking the issue before the DUR Committee. Ms. Gifford indicated that the U.S. Health Care Financing Administration had reached a different conclusion regarding Viagra as a fertility drug. She also indicated that the DUR Committee could be used to help determine limits and criteria for Viagra utilization under the Medicaid Program.

It was properly moved and seconded to send the letter to the Governor. The motion passed by voice vote.

## **Provider Concerns**

### **Ms. Cissy Kraft, Visiting Nurses Association of Evansville (VNA)**

Ms. Cissy Kraft, Visiting Nurses Association of Evansville, described to the Committee the VNA's experience with the Medicaid risk-based managed care program over the last several months. She explained that the Visiting Nurses Association of Evansville is a not-for-profit volunteer organization that provides in-home care under the direction of the patient's physician. The Association is both Medicaid- and Medicare-certified. Ms. Kraft suggested that there is considerable confusion and duplication of effort on the part of patients, as well as providers, in the current system.

### **Ms. Cindy Wessel, Visiting Nurses Association of Evansville**

Ms. Cindy Wessel, Visiting Nurses Association of Evansville, described in detail the situation involving several patients and the attempts of VNA to obtain reimbursement from their managed health care contractors, Managed Health Services (the current subcontractor to Maxicare), Health Care Network/Option Care (a former subcontractor to Maxicare), and Maxicare (as the risk-based managed care contractor with the state for the Southern third of Indiana). The specific chronology of events is provided as an attachment.<sup>8</sup>

### **Ms. Lisa Benjamin, Director of Finance, Visiting Nurses Association of Evansville**

Ms. Lisa Benjamin, Director of Finance with VNA, provided additional details on the problem and was available to answer questions. She reported that VNA had not been reimbursed for services provided since April 1998 in the amount of about \$87,000.

### **Ms. Shelly Stewart, Managed Health Services**

Ms. Shelly Stewart, Managed Health Services, apologized to the Committee for the confusion. She stated that Managed Health Services was trying to work closer with their providers now and

---

<sup>7</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

<sup>8</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

were urging their providers to call Managed Health Services if they had any problems. Managed Health Services was attempting to resolve the problems that had been occurring.

#### **Mr. Ken Kubinski, Maxicare**

Mr. Ken Kubinski, Maxicare, added that part of the problem described by VNA originated when Maxicare terminated a relationship with Health Care Network/Option Care in April of 1998. Consequently, Maxicare looked for well-established providers and expanded their relationship with Managed Health Services. As a result, utilization review and case management are now done differently. But, Maxicare has had difficulty getting claims processed since April. He added that the Maxicare Board of Directors was meeting at this time and that within two weeks, the problems should be resolved. He stated that he would be happy to come back to the October meeting of the Committee and report on the problem.

Committee members expressed concerns about the several levels of contractors and subcontractors, the ability and timeliness of the subcontractors getting reimbursed for services provided, and the amount of reimbursement being received by contractors who don't actually provide the service.

#### **Other Business**

##### **Ms. Kathy Gifford, Assistant Secretary, Office of Medicaid Policy and Planning**

Ms. Kathy Gifford, OMPP, presented a document<sup>9</sup> to the Committee as a response to discussions in previous Committee meetings regarding the responsiveness of the state to problems encountered by managed care providers and recipients in the Medicaid Program. The document described methods by which individuals could begin getting problems resolved. These methods include: (1) benefit advocates; (2) Hoosier Healthwise Helpline; and (3) Managed Care Organization Member Services.

#### **Asset Provisions Under the Medicaid Program**

##### **Ms. Mary Ann Hack, Director, Indiana Long Term Care Insurance Program, OMPP**

Ms. Mary Ann Hack, OMPP, discussed for the Committee and provided a handout<sup>10</sup> concerning how people with significant amounts of assets can become eligible for Medicaid under current rules and regulations. Options include: (1) giving away assets; (2) converting countable liquid assets to non-countable assets; and (3) placing assets in trust. Ms. Hack also discussed special rules for couples with one spouse at home as well as estate recovery rules. Exempt assets include a house, term life insurance, certain parts of whole life insurance, income-producing property, assets considered unavailable to the individual, and funeral trusts.

Ms. Hack also briefly discussed how the Indiana Long Term Care Insurance Program works. She added that the total asset protection provisions recently enacted by the General Assembly have generated considerable interest among insurance companies. Federal approval for these provisions was obtained in June 1998 retroactive to March 1998.

In response to a question from the Committee regarding the portability of long term care insurance between states, Ms. Hack stated that other states' Medicaid programs do not recognize the asset protection provisions offered through Indiana's Long Term Care Insurance

---

<sup>9</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

<sup>10</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).

Program. If a policy-owner were institutionalized in another state, the individual would have to move back to Indiana in order to protect the individual's assets from Medicaid.

In response to a question, Ms. Hack stated that Indiana allows reciprocity agreements with other states that offer long-term care insurance. Currently, Connecticut is the only other state that has a reciprocity clause.

**Mr. Scott Severns, Attorney, Severns Associates**

Mr. Scott Severns, Attorney, described the case of one of his clients, an 81-year old woman, and her 84-year-old husband who was in a nursing home after suffering a series of strokes. After 62 years of marriage, the couple owned a home and had about \$71,000 in the bank. An extended stay in a nursing home would wipe out the couple's savings in less than two years. The woman and her family were in Mr. Severns' office to learn of their options.<sup>11</sup>

Mr. Severns also provided to the Committee a document, Medicaid Reference for Caregivers: An Overview of Eligibility Requirements in the Nursing Home Setting.<sup>12</sup> The document includes an overview of the Medicaid rules regarding assets, income, transfers of assets, spousal impoverishment rules, the importance of timing, and examples of planning techniques.

The next meeting was determined to be Tuesday, October 27, 1998, at 10:00 a.m. There being no further business, the meeting was adjourned.

---

<sup>11</sup>Copies of Mr. Severns' testimony are on file in the Legislative Information Center (See footnote 1).

<sup>12</sup>Copies of this document are on file in the Legislative Information Center (See footnote 1).